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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/871,568

05/31/2001

David Hernandez

1140

7590

12/21/2004

Thomas A. O'Rourke
Wyatt, Gerber & O'Rourke
99 Park Avenue
New York, NY 10016

EXAMINER

PHAN, MAN U

ART UNIT

PAPER NUMBER

2665

DATE MAILED: 12/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No. **09/871,568**

Applicant(s)

HERNANDEZ, DAVID

Examiner

Man Phan

Art Unit

2665

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 May 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) _____ is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-24 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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DETAILED ACTION

1. This communication is in response to applicant's 05/31/2001 in the application of Hernandez for a "System and apparatus for block segmentation procedure for reduction of peak-to-average power ratio effects in orthogonal frequency division multiplexing modulation".

Election/Restriction

2. Restriction to one of the following inventions is required under 35 U.S.C. 121:
- I. Claims 1-21 drawn to the Control of data admission to the network: Subject matter including provisions for (a) avoiding or (b) regulating an actual or potential traffic overload condition, and traffic shaping, wherein the data admission control provides consistent packet/cell flow. This subclass is intended for regulating the amount of data entering a multiplex network so as to prevent an overloading or a further overloading of the network. Classified in **class 370, subclass 230**.
 - II. Claims 22-24 drawn to the GENERALIZED ORTHOGONAL OR SPECIAL MATHEMATICAL TECHNIQUES: This subclass is indented for Particular set of orthogonal functions. Subject matter wherein a special set of orthogonal functions are used to achieve multiplexed transmission (e.g., Legendre

polynomials, Bessel functions). Subject matter wherein (a) a multiplexed channel is uniquely identified and separated from other multiplexed channels by members of a pair of mathematical functions having a sum of products or having an integral that is zero or sometimes one under specified conditions, or (b) particular mathematical processes are used to achieve multiplexing techniques, classified in **class 370, subclass 208**.

3. The inventions are distinct, each from the other because of the following reasons: Inventions I and II are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention II which has separate utility such as having details wherein a special set of orthogonal functions are used to achieve multiplexed transmission, which does not include the particular listed of the invention I, such as apparatus for a communication control wherein the data admission control provides consistent packet/cell flow. See MPEP ' 806.05(d).

4. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, and the search required for Group I is not required for Group II , restriction for examination purposes as indicated is proper.

5. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37.CFR 1.143).

6. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(I).

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231

or faxed to: (703) 308-9051, (for formal communications intended for entry)

Or: (703) 305-3988 (for informal or draft communications, please label

"PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive,
Arlington, VA., Sixth Floor (Receptionist).

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Man U. Phan whose telephone number is (571) 272-3149. The examiner can normally be reached Monday through Friday from 6:00 am to 3:00 pm.

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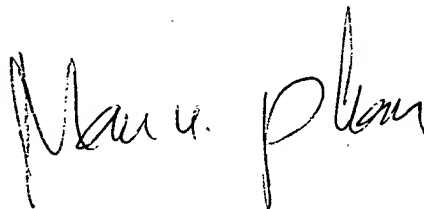
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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Huy Vu, can be reached on (571) 272-3155. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (571) 272-2600.

Mphan

12/17/2004


MAN U. PHAN
PRIMARY EXAMINER